

SEP 8 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

GEORGE BELL,

Plaintiff - Appellant,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant - Appellee.

No. 02-16061

D.C. No.

CV-00-02586-WBS/DAD

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, Chief District Judge, Presiding

Submitted June 11, 2003**
San Francisco, California

Before: HILL,*** T.G. NELSON, and HAWKINS, Circuit Judges.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See FED. R. APP. P. 34(a)(2).

*** The Honorable James C. Hill, Senior United States Circuit Judge for the Eleventh Circuit, sitting by designation.

George G. Bell appeals the district court's judgment remanding his case to the Social Security Administration. The court ordered a remand in order to allow the Commissioner to supplement the record to provide the information necessary to evaluate medical improvement.¹ We reverse because the Commissioner never demonstrated "that there is good cause for the failure to incorporate" the necessary evidence "into the record in a prior proceeding."² Under 42 U.S.C. § 405(g), the Commissioner must make such a showing in order to justify a remand.³

The district court correctly determined that the record contains no evidence supporting the Administrative Law Judge's finding of medical improvement.⁴ The record contains no written decision that indicates the basis of Bell's disability in 1989 at all. Because the Commissioner failed to introduce appropriate evidence, and has not shown cause for the failure, the presumption of continuing disability applies, and the district court must reinstate Bell's benefits.⁵

¹ See 20 C.F.R. § 404.1594.

² 42 U.S.C. § 405(g)

³ *Id.*

⁴ See 20 C.F.R. § 404.1594.

⁵ See *Bellamy v. Sec. of Health & Human Svcs.*, 755 F.2d 1380, 1381 (9th Cir. 1985).

REVERSED AND REMANDED WITH INSTRUCTIONS TO REMAND
WITH INSTRUCTIONS TO REINSTATE BENEFITS.